

### REMARKS

Claims 1-3, 5-14 and 16-21 are currently pending in the application. Claims 1, 8, 14, 20 and 21 are amended to clarify that which Applicants believe to be patentable subject matter. The Office Action (O.A.) dated January 22, 2007 (Paper No. 20070116) rejects claims 1-3, 5-14 and 16-21 under 35 U.S.C. §103(a) as being unpatentable over by DiNicola et al. (U.S. Patent No. 6,288,753; hereinafter referred to as "DiNicola") in view of Sonnenfeld (U.S. Patent No. 6,418,298).

#### Rejections Based Upon 35 U.S.C. §103(a)

Briefly, the Applicants' claimed subject matter is directed to a system and method enables the verification of the identity of a student both concurrently with and after the taking of a test, or exam. Claims 1, 8 and 14 have been amended to clarify this feature. Specifically, a video frame of a student transmitted during an exam is stored in conjunction with the transcript associated with the student rather than merely in conjunction with a particular classroom situation (FIG. 9A, ¶51, lines 1-10) as in DiNicola. Applicants believe that the prior art of record neither suggests nor teaches this aspect of the disclosed technology. This feature enables a transcript to be verified with respect to a particular student, perhaps against an archived image of the student stored in the student's records, at any time after the test without resorting to an archived image of the entire class, as would be necessary with DiNicola.

In an Appeal Brief, dated April 4, 2005, (Appeal Br.) Applicants explained that DeNicola suggests two objects of the invention: 1) "providing a system for providing live interactive distance learning to at least one remote location" and 2) "providing a system for providing on-line testing and evaluation to remotely located end users" (col. 4, lines 21-23 and 51-53). The only time images are transmitted is during the implementation of the first object of the invention. In other words, the student images of DeNicola are employed to provide the teacher, or "Instructor," of a particular online course a class-like atmosphere (col. 4, lines 46-51; col. 8, lines 24-29). DeNicola describes the transmission of images to an "Instructor," who views groups of students in class room settings (see Element 24, Figure 2).

In contrast, DeNicola's testing, i.e. the second object of the invention, is performed on individual students in conjunction with a "Test Administrator" (col. 11, line 48 through col. 13, line 63). There is no suggestion of transmitted student images with respect to either student

testing in general or the Test Administrator in particular. Even if DeNicola's Instructor conducted testing, which Applicant contends is not suggested by the cited art, there is no mechanism suggested for the Instructor to correlate a specific student's image from among images of groups of students to a specific test for the purpose of validating the test.

In the Board of Patent Appeals and Interferences (BPAI Opinion), dated September 22, 2006, the Administrative Patent Judges stated in agreement:

Regarding the on-line testing, evaluation and reporting system, we agree with the appellant that "[t]here is no suggestion of transmitted student images with respect to either student testing in general or the Test Administrator in particular."  
(Appeal Br. At 9.)

(BPAI opinion at 5). However, the O.A. seems to rely on DeNicola for this feature.

For the reasons stated above, independent claim 1, 8 and 14 are allowable and Applicants respectfully request withdrawal of the §103(a) rejections. Each of dependant claims 2, 3, 5-7, 9-13 and 16-21 are allowable at least for the fact that they each depend upon one of the allowable independent claims and Applicants request that these rejection be withdrawn as well.

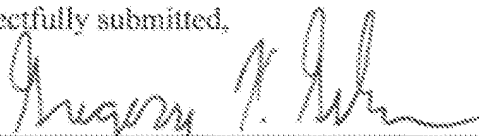
### CONCLUSION

For the reasons stated above, Applicants respectfully request withdrawal of the §103(a) rejections of claims 1-3, 5-14 and 16-21. It is respectfully submitted that all issues and rejections have been adequately addressed and that pending claims 1-3, 5-14 and 16-21 are allowable and that the case should be advanced to issuance. If the Examiner has any questions or wishes to discuss the claims, the Examiner is encouraged to call the undersigned at the telephone number indicated below. A Request for a One-Month Extension of Time is being filed and paid for electronically in conjunction with this Response so that Applicants have until May 22, 2007 to respond. It is believed that no other fees are due with the filing of this Response. However, should any other fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of IBM Corporation, Deposit Account No. 09-0447.

Date:

Apr. 30, 2007

Respectfully submitted,



By: Gregory K. Goshorn

Reg. No.: 44,721

ATTORNEY FOR APPLICANT

Greg Goshorn, P.C.

9600 Escarpment

Suite 745-9

Austin, Texas 78749

Telephone: (512) 291-9203

Facsimile: (512) 535-4206